

# REGISTER

*South Dakota Legislative Research Council*



*Volume 31*

*Monday, 8:00 a.m., August 23, 2004*

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**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

**Department of Health:** (August 17, 2004) has filed rules that will add or clarify definitions, terms, and statements; bring rules into compliance with federal regulations and define the scope of article 44:04 to add fees for licensing and registration, improve public safety and accountability of controlled substances, develop policies and procedures for handling and storage of hazardous substances, increase requirements for staffing exceptions, include limited liability partnerships as a governing body, amend tuberculin screening requirements, require date and timing of validating signatures for telephone/verbal medical and drug orders, meal substitutes to be of equal nutritive value, allow facilities to develop a dining assistance program, remove the self-directed care regarding medication for assisted living centers with medication administration approval, clarify the type of ice maker that could be used in facilities with 20 beds or less, require specific type of ceiling material for areas requiring high level of cleanliness, and provide outside access to residents of secured areas. The general authority for these rules, as cited by the department, is SDCL 34-1-17, 34-12-13, 34-20B-41, 34-21-4.1, 34-21-15, and 34-22-9.

A public hearing will be held in the Matthews Training Center, Joe Foss Building, 523 East Capitol, Pierre, South Dakota, on September 29, 2004, at 8:30 a.m. to consider the adoption and amendment of proposed rules numbered 44:03 Radiation Safety; 9:00 a.m. to consider the adoption and amendment of proposed rules numbered 44:58 Drug Control, and 10:00 a.m. to consider the adoption and amendment of

proposed rules numbered 44:04 Medical Facilities. Copies of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Department of Health, Attn: Colleen Kozel, 600 East Capitol Avenue, Pierre, South Dakota 57501. Copies of the proposed rules may also be obtained at the Health Department website:

<http://www.state.sd.us/doh/News/index.htm>.

Material sent by mail must reach the department by October 9, 2004, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3361 at least 48 hours before the hearing.

***Department of Environment and Natural Resources: Water Management Board:***

(August 19, 2004) has filed rules to clarify that all waters of the state are subject to public recreation if they can be reached without trespassing on private property. The general authority for these rules, as cited by the board, is SDCL 34A-2-93.

A public hearing will be held in the conference room at the Floyd Matthew Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on October 6, 2004, at 9:00 a.m. CT. Copies of the proposed rules may be obtained without charge from and written comments sent to Patrick Snyder, Surface Water Quality Program, Department of Environment and Natural Resources (DENR), 523 East Capitol, Pierre, South Dakota 57701-3182. Copies of the proposed rules may also be obtained from DENR's Web site at [www.state.sd.us/denr](http://www.state.sd.us/denr). Material sent by mail must reach the Surface Water Program by 5:00 p.m., October 5, 2004, in order to be taken into consideration. This

hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3351 at least 48 hours before the hearing.

**NOTICE:** The **South Dakota Lottery** is ending instant ticket game numbers 200 - Red, Hot & Blue, 201 - Strike it Rich, 202 - Mistletoe Money, and 208 - Holiday Package. The last day that prizes will be paid for these games is January 31, 2005.

**NOTICE:** The **Public Utilities Commission** has cancelled and rescheduled a public hearing that was to be held on August 24, 2004, at 8:30 a.m. The public hearing has been rescheduled for September 20, 2004, at 1:30 p.m. in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota. This hearing was previously noticed in 31 SDR 13, July 26, 2004.

#### **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

##### **DEPARTMENT OF TRANSPORTATION:**

70:01:02:36, 70:01:02:49, 70:01:02:53;  
70:03:01:02, 70:03:01:02.01, 70:03:01:15, and  
70:03:01:45.06.

History-Notice: 30 SDR 198, June 7, 2004  
Hearing: June 24, 2004  
Filed: August 17, 2004  
Effective: September 6, 2004

##### **DEPARTMENT OF HEALTH: BOARD OF**

**NURSING:** 20:48:03:06; 20:48:07:19 to  
20:48:07:34, inclusive, 20:48:07:36,  
20:48:07:38, 20:48:07:39, 20:48:07:43,  
20:48:07:47 to 20:48:07:49, inclusive.

History-Notice: 30 SDR 197, June 7, 2004  
Hearing: July 15, 2004  
Filed: August 19, 2004  
Effective: September 8, 2004

#### **Executive Appointments:**

**Tom Adam**, Pierre, was appointed on August 13, 2004, to the **South Dakota Science and Technology Authority**, effective immediately. At the first meeting, lots will be drawn to determine the length of the term of office.

**Robert Bogue**, Canton, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2005.

**David Bozied**, Brookings, was appointed on August 13, 2004, to the **South Dakota Science and Technology Authority**, effective immediately. At the first meeting, lots will be drawn to determine the length of the term of office.

**Mark Bratt**, Sioux Falls, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2005.

**Nicole Burger**, Sioux Falls, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2007.

**Ruth Cedar Face**, Kyle, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2007.

**Dennis Darrington**, Waubay, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2005.

**Patricia LeBrun**, Rapid City, was appointed on August 13, 2004, to the **South Dakota Science**

**and Technology Authority**, effective immediately. At the first meeting, lots will be drawn to determine the length of the term of office.

**Casey Peterson**, Rapid City, was appointed on August 13, 2004, to the **South Dakota Science and Technology Authority**, effective immediately. At the first meeting, lots will be drawn to determine the length of the term of office.

**Patrick Powers**, Mission, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2006.

**David Snyder**, Lead, was appointed on August 13, 2004, to the **South Dakota Science and Technology Authority**, effective immediately. At the first meeting, lots will be

drawn to determine the length of the term of office.

**Kristi Spitzer**, Aberdeen, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2006.

**Matt Stricherz**, Vermillion, was appointed on August 13, 2004, to the **South Dakota Certification Board for Alcohol and Drug Professionals**, effective immediately and shall continue until June 30, 2005.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

### REMINDER OF HEARINGS SCHEDULED

8-25-2004	Environment and Natural Resources: Division of Environmental Services	Repeal an existing chapter of state rules for Consumer Confidence Reports and update it by incorporating by reference the most recent published version of the Code of Federal Regulations for drinking water; 31 SDR 17.
8-25-2004	Secretary of State: Board of Elections	Amend rules to bring the notice of municipal election and the election board oath into compliance with statutory changes, provide additional information on the provisional ballot envelope, provide language for any voter identification sign used at a polling place, add additional instructions for optical scan ballots, improve the wording for certain school ballots, clarify the ballot recapitulation sheet and the instructions to absentee voters, and provide a ballot box seal; 31 SDR 17.
9-14-2004	Environment and Natural Resources: Operator Certification Program	Amend rules to clarify which operators are eligible to become certified as Class III or IV operators; 31 SDR 13.
9-20-2004	Labor: Public Utilities Commission	Amend rules that would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in

		communication during a power outage and to require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days; 31 SDR 13 and 31 SDR 26.
9-29-2004	Health	Adopt and amend rules relating to Radiation Safety, Drug Control, and Medical Facilities; 31 SDR 25.
10-6-2004	Environment and Natural Resources: Water Management Board	Amend rules to clarify that all waters of the state are subject to public recreation if they can be reached without trespassing on private property; 31 SDR 25.

### *Rules Review Committee Meetings*

The next meeting of the Interim Rules Review Committee will be held Friday, September 3, 2004, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2004 interim: October 15.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 31 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at MyLRC (<http://legis.state.sd.us/mylrc/index.cfm>).